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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1935

No. 303

ALICE LEE GROSJEAN, SUPERVISOR OF PUBLIC ACCOUNTS FOR THE STATE OF LOUISIANA,

Appellant,

vs.

AMERICAN PRESS COMPANY, INC., ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

STATEMENT AS TO JURISDICTION.

GASTON L. PORTERIE,
Attorney General of Louisiana.
CHAS. J. RIVET,
Special Assistant to the Attorney General of Louisiana.

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The appeal herein is from a final decree of permanent injunction rendered April 8th, 1935, by a specially constituted District Court of the United States (J. C. 266, 28 U. S. C. A., 380).

Under Sections 238 and 266 of the Judicial Code (28 U. S. C. A., 345 and 380) a direct review is allowed and a direct appeal may be taken to the Supreme Court from a final decree granting a permanent injunction.

The statute herein declared unconstitutional is Act No. 23 of the Legislature of the State of Louisiana for the year 1934, to be found at page 176 of the official edition of the Acts of Louisiana for 1934.

The provisions of said Act deemed pertinent are summarized as follows:

To provide additional revenue for the State a license tax is levied and assessed upon every person, firm or corporation engaged in the business of selling advertising or advertisements, printed or published, or to be printed or published, in any newspaper, magazine, periodical or publication having a circulation of more than twenty thousand copies per week, or displayed or exhibited, or to be displayed or exhibited by means of moving pictures in the State.

The license tax for the privilege of engaging in such business in the State is fixed at two per cent (2%) of the gross receipts of such business.

Every person, firm, association or corporation engaged in such business, or who has transacted any such business, is required to file with the Supervisor of Public Accounts a sworn report showing the amount of gross receipts for such business during the period covered by the report.

The day for filing the first report is fixed as October 1st, 1934, for the period from August 1, 1934, to September 30, 1934. Thereafter a report is due on the first day of January, April, July and October for the preceding quarter of the year.

The report is to be accompanied by a remittance to the Supervisor of Public Accounts for the tax shown by said report to be due.

The Supervisor of Public Accounts is authorized to audit and revise the report, and to assess additional taxes when and as shown to be due. Notice of any additional liability

is to be given by mail to the person owing the tax. The taxpayer is given the right to contest any such assessment in the District Court of the Parish of East Baton Rouge (the domicile of the Supervisor of Public Accounts).

In cases where it is established to the satisfaction of the Supervisor of Public Accounts that a payment or payments have been made that were not due or collectible, the said Supervisor is authorized to refund any such payments out of any funds on hand, collected under the Act and not remitted to the State Treasurer.

All taxes levied by the Act are due on the day following the last day of the quarter year, as to the business done during such quarter year, and become delinquent on the thirtieth day following the last day of the quarter in which the business was transacted. Delinquent taxes bear interest at the rate of one per cent (1%) per month from their due date until paid.

Where it becomes necessary to enforce payment of any tax due under the Act, the Supervisor of Public Accounts is authorized to institute suit, in any court of competent jurisdiction, for the amount of the tax and interest, and may also include a demand for a penalty of 25% of the amount of tax and interest, as attorney's fees, which said penalty is imposed upon any taxpayer against whom it is necessary to proceed and shall be taxed as costs and included in the judgment rendered. Execution of the judgment shall take place as provided by existing laws.

It is made unlawful for any person, firm, association or corporation required to file a report or pay a tax under the Act, or any managing agent or officer of any such firm, association or corporation, to fail, neglect or refuse to file the sworn report at the time and in the manner and form prescribed, or to pay any tax due under the Act prior to its becoming delinquent; and to make any false state-

ment in the sworn report, or to make any false representations to the Supervisor of Public Accounts as to the tax levied by this Act.

A person violating any provision of the Act is to be deemed guilty of a misdemeanor, and, on conviction, shall be fined not exceeding five hundred dollars or imprisoned not exceeding six months, or both, at the discretion of the court, for each violation.

As to corporations violating the Act, there shall be recovered at the suit of the district attorney, an amount not exceeding five hundred dollars for each violation.

The Act fixed the venue of prosecutions and suits thereunder.

For the purpose of enforcing the collection of the tax, the Supervisor of Public Accounts is authorized to examine, at reasonable hours, the books, records and other documents of all persons, firms, associations or corporations who have transacted any of the business described, or who are liable for a tax under the Act in order to ascertain the true amount due.

If examination of the books is refused, the Supervisor of Public Accounts is authorized to proceed by rule, in a court of competent jurisdiction, where the refusal occurred, and require the person so refusing to show cause why the Supervisor of Public Accounts should not be permitted to make the examination. In case the rule is made absolute, it is considered a judgment of the court, violation of which is to be deemed a contempt and punished according to law.

The Supervisor of Public Accounts is required to remit to the State Treasurer, not later than the 30th day after the last day of the preceding quarter, all taxes, interest and penalties, collected by him during said quarter, and the Treasurer is required to place the same to the credit of the Property Tax Relief Fund. The Supervisor is au-

thorized to withhold two thousand dollars ($2,000.00) per month of the collections for the expense of enforcing the Act.

The application for the appeal herein was presented on June 20, 1935.

(Signed) GASTON L. PORTERIE,
Attorney General;
" CHAS. J. RIVET,
Special Assistant to Attorney General,
Counsel for Alice Lee Grosjean,
Supervisor of Public Accounts of Louisiana.

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